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| 10/672,414 | 09/26/2003 | Scott Thomas Loughran | 9369 | 8429 |
| 27752 | 7590 | 03/29/2007 | EXAMINER | |
| THE PROCTER & GAMBLE COMPANY | | | GHALI, ISIS A D | |
| INTELLECTUAL PROPERTY DIVISION | | | | |
| WINTON HILL BUSINESS CENTER - BOX 161 | | | ART UNIT | PAPER NUMBER |
| 6110 CENTER HILL AVENUE | | | 1615 | |
| CINCINNATI, OH 45224 | | | | |
| SHORTENED STATUTORY PERIOD OF RESPONSE | | MAIL DATE | DELIVERY MODE | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/672,414 | LOUGHAN ET AL. | |
| | Examiner | Art Unit | |
| | Isis A. Ghali | 1615 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 11 January 2007.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-21 and 23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-21 and 23 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application
- 6) Other: _____.

DETAILED ACTION

The receipt is acknowledged of applicants' amendment filed 01/11/2007.

Claim 22 has been canceled and claim 23 has been added.

Claims 1-21 and 23 are pending and included in the prosecution.

The following rejection has been overcome by virtue of applicants' amendment and remarks:

The rejection of claims 1-6, 10, 11, 17-20 under 35 U.S.C. 102(b) as being anticipated by US 6,221,211 ('211).

The following new ground of rejection is necessitated by applicants' amendment:

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 2-4 and 23 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. This is a new matter rejection. Regarding claim 2, and the claims 3 and 4 that depend from claim 2, claim 2 as amended recites the limitation "another non-verbal cue", and nowhere in the specification as originally filed applicants have disclosed this limitation of another non-verbal cue. Regarding claim 23, the claim recites "the embossment comprises a colored ply adhesive", and applicants referred to page 3, line 9-12 for support, however, this text of the specification disclosed that "non-verbal cues include embossment, densified regions in a non-densified ply, non-densified regions in a densified ply, colored ply bond adhesives and perfume in fibrous product structure". Therefore, no disclosure of "the embossment comprises a colored ply adhesive" as recited by claim 23. In accordance to MPEP 714.02, applicant should specifically point out to where in the disclosure a support for any amendment made to the claims can be found.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The present claim 1 is drawn to fibrous structure having cue in the form of embossment.

4. Claims 1-3, 17-20, and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 98/50482 ('482).

WO '482 disclosed multiply absorbent article with pigmented adhesive positioned between the two plies that is formed of cellulosic fibers (abstract; page 4, lines 5-6; page 6, lines 310, 26. The pigmented adhesive reads on non-verbal cue. The reference disclosed that the plies are embossed (page 6, last paragraph).

Response to Arguments

5. Applicant's arguments filed 01/11/2007 have been fully considered but they are not persuasive. Applicants traverse this rejection by arguing that WO '482 failed to teach non-verbal cue that communicate to the user, and the multiply absorbent article is in a wet state and not in the dry state.

In response to this argument, applicants' attention is directed to scope of the present claim 1 which is drawn to fibrous structure having cue in the form of embossment. WO '482 clearly teach non-verbal cue because the cue is created by

pigments and embossment, that are not verbal elements. Additionally, the product disclosed by the reference is an absorbent article, and this implies that the product is dry. The reference disclosed on page 6, last paragraph that the adhesive composition comprises pigment, i.e. non-verbal cue in the dry state, and when the product becomes wet, another signal appears. The present claims are directed to a product, and all the elements of the product are disclosed by the reference. Regarding communication of the non-verbal cue to the user, this limitation is directed to the intended use of the product, and does not impart patentability to product claims.

6. Claims 1-3, 17-20, and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by US 3,672,949 ('949).

US '949 disclosed laminated creped tissue having high absorbent properties, softness, and strength (abstract; col.1, lines 28-32, 55-59). The tissue is fabric, i.e. fibrous (col.1, lines 60-62). Tissue comprises more than single ply attached by adhesive applied in a pattern in discrete spots, i.e. non-verbal cue (col.2, lines 11-25, 70-71). The reference disclosed that the plies are embossed (col.7, lines 44-46; col.8, claim 1).

Response to Arguments

7. Applicant's arguments filed 01/11/2007 have been fully considered but they are not persuasive. Applicants traverse this rejection by arguing that US '949 does not teach non-verbal cue as embossment as instantly claimed by claim 1, and the adhesive

does not read on non-verbal cue because it is not colored and does not communicate to the user.

In response to this argument, applicants' attention is directed to scope of the present claim 1 which is drawn to fibrous structure having cue in the form of embossment. US '949 at col.7, lines 44-46; col.8 and claim 1, disclosed the plies are embossed, which reads on non-verbal cue in the form of embossment as instantly claimed. The present claims are directed to a product, and all the elements of the product are disclosed by the reference. Regarding communication of the non-verbal cue to the user, this limitation is directed to the intended use of the product, and does not impart patentability to product claims.

8. Claims 1-3, 17-20, 23 are rejected under 35 U.S.C. 102(b) as being anticipated by US 3,684,949 ('641).

US '641 disclosed laminated creped tissue providing pleasant pattern of visible coloration i.e. non-verbal cue (abstract; col.1, lines 24-26; claim 1). Creped tissue reads on embossment. The tissue is cellulose fibers (col.2, lines 25-28). Tissue comprises more than single ply attached by adhesive (col.2, lines 41-42). US '641 at col.3, lines 65-75 disclosed the plies have multiplicity of depression and projections, i.e. are embossed.

Response to Arguments

Art Unit: 1615

9. Applicant's arguments filed 01/11/2007 have been fully considered but they are not persuasive. Applicants traverse this rejection by arguing that US '641 does not teach non-verbal cue as embossment as instantly claimed by claim 1, and does not teach cue that communicates to the user.

In response to this argument, applicants' attention is directed to scope of the present claim 1 which is drawn to fibrous structure having cue in the form of embossment. US '641 at col.3, lines 65-75 disclosed the plies have multiplicity of depression and projections, i.e. are embossed, which reads on non-verbal cue as instantly claimed. The present claims are directed to a product, and all the elements of the product are disclosed by the reference. Regarding communication of the non-verbal cue to the user, this limitation is directed to the intended use of the product, and does not impart patentability to product claims.

10. Claims 1-3, 23 are rejected under 35 U.S.C. 102(b) as being anticipated by US 4,325,768 ('768).

US '768 disclosed laminated creped fibrous web material with embossed pattern i.e. non-verbal cue (abstract).

Response to Arguments

11. Applicant's arguments filed 01/11/2007 have been fully considered but they are not persuasive. Applicants traverse this rejection by arguing that US '768 does not

teach non-verbal cue that communicates to the user. The embossment as disclosed by the reference is for aesthetic purposes only.

In response to this argument, applicants' attention is directed to scope of the present claim 1 which is drawn to fibrous structure having cue in the form of embossment. US '768 disclosed embossment of the plies, which reads on non-verbal cue as instantly claimed. The present claims are directed to a product, and all the elements of the product are disclosed by the reference. Regarding communication of the non-verbal cue to the user, and its purpose for aesthetic appearance, such limitations are directed to the intended use of the product, and do not impart patentability to product claims.

12. Claims 1-3, 17-20, 23 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5,503,318 ('076).

US '076 disclosed multicolored printed laminate, wherein the laminate includes fibrous webs attached by plurality of discrete colored adhesive in emboss pattern, non-verbal cue (abstract).

Response to Arguments

13. Applicant's arguments filed 01/11/2007 have been fully considered but they are not persuasive. Applicants traverse this rejection by arguing that US '076 does not teach non-verbal cue that communicates to the user. The embossment as disclosed by the reference is for aesthetic purposes only.

In response to this argument, applicants' attention is directed to scope of the present claim 1 which is drawn to fibrous structure having cue in the form of embossment. Applicants admit that US '076 disclosed emboss pattern, which reads on non-verbal cue as instantly claimed. The present claims are directed to a product, and all the elements of the product are disclosed by the reference. Regarding communication of the non-verbal cue to the user, and its purpose for aesthetic appearance, such limitations are directed to the intended use of the product, and do not impart patentability to product claims.

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

16. Claims 1- 21 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,221,211 ('211) in view of US '768.

US '211 teaches multi-ply tissue product containing indicia to indicate the presence of some unique ingredients within the tissue product (abstract). The reference disclosed facial and bath tissue and the indicia are coloring or printing on the internal ply surface, i.e. contacting the glue (col.1, lines 20-30). The tissue comprises more than one fibrous plies that are glued together (col.1, lines 39-45; col.2, lines 34-41). The indicia are color other than white or decorative pattern (col.2, lines 13-23). The indicia include ingredients such as emollient, moisturizers, softening agent, menthol (aromatherapy), cleansing agent and fragrance (col.2, lines 42-44, 53-58; col.4, lines 59-64).

US '211 does not teach the non-verbal cue as embossment as instantly claimed by claim 1.

US '768 teaches laminated creped fibrous web material with embossed pattern i.e. non-verbal cue (abstract). Embossment provides the desired bulk and aesthetic appearance of the web (col.4, lines 3-4, 14-16).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to provide multi-ply tissue product having non-verbal cue as disclosed by US '211, and further add embossment to the plies as disclosed by US

'768, motivated by the teaching of US '768 that such embossment provides the desired bulk and aesthetic appearance of the product, with reasonable expectation of having multi-ply tissue product having non-verbal cue in form of embossment that provides bulk and aesthetic appearance to the product.

However, the combined teaching of US '211 and US '768 does not explicitly teach the specific ingredients as claimed in claims 7-9, the indicia indicating properties of the product as claimed in claims 12-16, or the package of the product as claimed in claim 21.

US '211 teaches emollient, moisturizers, cleansing agent and softening agent that encompass all chamomile, aloe and vitamin E, and one having ordinary skill in the art at the time of the invention would have selected the specific ingredient according to the specific intended use, motivated by the logic of the pharmaceutical art. Further, one having ordinary skill in the art at the time of the invention would have been motivated to provide the unique properties of the product on the indicia disclosed by the reference, motivated by the fact that listing of the properties will reveal the hidden advantages of the product, with reasonable expectation of better attraction to the consumer and better selling rate. Further, one having ordinary skill in the art would have packaged the product disclosed by US '211 motivated by the general knowledge to one skilled in the art that packaging protects the product during storage and handling, with reasonable expectation of having the product of US '211 in a package.

17. Claims 12-16 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over US '211 in view of US '768 and further in view of US 2004/0118530.('530).

The combined teachings of US '211 and US '768 are discussed above, however, the combination does not teach the properties of the product as claimed in claims 12-16, or the package of the product as claimed in claim 21.

US '530 teaches facial or bath tissue or wipe product comprising fibrous material and patterned indicia (abstract; paragraphs 0009, 0013, 0014). The wipe is configured to provide the appropriate material to provide different physical properties including softness, strength, toughness, and absorbency (paragraph 0049). The products are packaged for eventual sale to the consumer (paragraph 0048).

One having ordinary skill in the art at the time of the invention would have been motivated to provide the product disclosed by the combined teaching of US '211 and US '768, and make the product having softness, strength, toughness, and absorbency as disclosed by US '530 by selecting the materials of the product and indicate the properties of the product on the indicia disclosed by the reference, motivated by the fact that the product has many desirable physical properties and advertising the properties may attract the consumer and increase the sale rate, with reasonable expectation of better attraction to the consumer and better sale rate. Further, one having ordinary skill in the art would have been packaged the product disclosed by the combined teaching of US '211 and US '768 as disclosed by US '530, motivated by the teaching of US '530 that packaging make the product ready for eventual sale, with reasonable expectation of having a packaged product.

Response to Arguments

18. Applicant's arguments filed 01/11/2007 have been fully considered but they are not persuasive. Applicants traverse obviousness rejection by arguing that US '211 does not teach embossment.

This argument is moot in view of the new ground of rejection that is necessitated by applicants' amendment and necessitated the combination of US '211 with US '768.

Conclusion

19. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

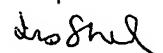
20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isis A. Ghali whose telephone number is (571) 272-0595. The examiner can normally be reached on Monday-Thursday, 7:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward can be reached on (571) 272-8373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Isis A Ghali
Primary Examiner
Art Unit 1615

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ISIS GHALI
PRIMARY EXAMINER